



U.S. Department of Justice

United States Attorney
Southern District of New York

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

January 3, 2017

BY ECF

The Honorable Edgardo Ramos
United States District Judge
Southern District of New York
Thurgood Marshall U.S. Courthouse
40 Foley Square, Room 2102
New York, New York 10007

Re: United States v. Ahmed Mohamed El Gammal,
15 Cr. 588 (ER)

Dear Judge Ramos:

The Government writes respectfully to request permission to display during its opening statement four maps of Turkey, Syria, and the surrounding Middle Eastern region, which are currently marked Government Exhibits 700 through 703 and are attached hereto. The Government expects to offer these maps into evidence at trial during the testimony of its expert, Aaron Zelin. Defense counsel objects to the Government's proposed use of the referenced exhibits during its opening statement.

The Government respectfully submits that use of the aforementioned maps in this manner is entirely proper and should be permitted. As an initial matter, the sole purpose of displaying the maps during opening will be to highlight facts that are unobjectionable matters of public record of which the Court could take judicial notice: the locations of Turkey and Syria, as well as the locations of two specific cities within Turkey (Adana and Gazientep), which the Government may also circle and/or highlight on one of the maps during its opening statement.

No prejudice or harm will result from showing these maps to the jury because they were obtained from a well-known public source—Google Earth—and defense counsel has not moved to preclude their admission at trial (nor would there be any valid basis to do so).¹ Courts have permitted the use of maps and other similar demonstratives for the purpose of aiding the jury during opening statements. *See, e.g., United States v. De Peri*, 778 F.2d 963, 978–79 (3d Cir. 1985) (in racketeering case, court did not abuse discretion by allowing the government to use chart during opening statement containing names of alleged co-conspirators, dates they served in the police department, and the divisions in which they served); *United States v. Fried*, 881 F.2d 1077, 1989

¹ Defense counsel has indicated that they will inform the Government at trial whether they object to the admission of the relevant exhibits during Mr. Zelin's testimony.

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WL 88495, at *4 (6th Cir. Aug. 7, 1989) (court did not abuse discretion by allowing pedagogical chart showing the organizational structure of a drug distribution group, the names of its members, the dates of their involvement, and the specific acts they committed because the chart did not contain “any unfair, unproved, inadmissible, inaccurate, irrelevant, misleading, or confusing matters.” (citing *De Peri*, 778 F.2d at 978)); *United States v. Martinez*, No. 3:09-CR-5, 2011 WL 103563, at *2 (N.D. Ga. Jan. 12, 2011) (denying motion for a new trial based on government’s display of a map of Texas that subsequently was not admitted at trial where the jury was instructed that “statements or arguments by the attorneys during opening were not evidence”).

Indeed, counsel for the Government are aware of several recent cases in this District in which maps, demonstratives, or other evidence were displayed during opening statements—albeit in some instances without any objection from defense counsel. *United States v. Muntslag*, 13 Cr. 635 (SAS) (in narcotics case, Government displayed map of North America and Caribbean region that included arrows illustrating alleged movement of narcotics from Suriname to New York); *United States v. Steven Rawlins*, 15 Cr. 377 (AJN) (in wire fraud case, Government displayed slides depicting alleged flow of funds through various bank accounts/corporate entities); *United States v. Al Fawwaz*, 98 Cr. 1023 (LAK) (in terrorism case, without defense consent, Government displayed Usama Bin Laden’s August 1996 *Declaration of Jihad Against the Americans Who Occupy the Land of the Two Holy Sites*); *United States v. Abu Ghayth*, 98 Cr. 1023 (LAK) (in terrorism case, Government displayed photograph of defendant seated with Bin Laden and two other senior al Qaeda leaders); *United States v. Ghailani*, 98 Cr. 1023 (LAK) (in terrorism case, Government displayed map of Africa and Middle East region).

